

AG Contract No.: KR02-1526TRN  
ADOT ECS File No.: JPA 02-131  
**Amendment One**  
Project: H4109 01D/01C  
Section: US 180, (Fine Avenue to Navajo Road)  
Budget Source Item No.: \_\_\_\_\_

**AMENDMENT ONE  
INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF FLAGSTAFF

**THIS AMENDMENT** is entered into August 9, 2004 **Amendment Number ONE** to JPA 02-131, AG Contract No.: KR02-1526TRN, filed 30 October, 2002, filed with the Secretary of State under No. 25595, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and THE CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

**This AGREEMENT is being amended as follows:** 1) Replacing Exhibit A, to correct the original Exhibit. 2) Include additional roadway section at the southwest corner of Humphrey and Ft. Valley for the City of Flagstaff to accept into their jurisdiction and maintain upon completion of the construction. 3) Add the Non-Availability of funds and the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) to this agreement.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

Recital 4 is deleted and replaced with the following language:

4. The State has requested the City to accept a right-of-way near Kendrick Street, Navajo Road extension, and at the southwest corner of Humphrey and Ft. Valley, as shown on Exhibit A, attached hereto and made a part hereof. With the approval and by resolution of the Transportation Board the State will abandon ownership jurisdiction and maintenance responsibilities upon completion of the Project. The City will accept maintenance responsibilities upon completion and waive the requirements of Arizona Revised Statutes Section 28-7209.

NO. 25595 # 01  
Filed with the Secretary of State  
Date Filed: 08/09/04

Janice K. Brewer  
Secretary of State

By: Darryl D. Graenewald

**II. SCOPE OF WORK**

1. The State will:

The following shall replace Article I.f

f. Following the completion of the Project and approval and by resolution of the Transportation Board the State will abandon ownership jurisdiction and maintenance responsibilities for Kendrick Street, Navajo Road extension, and at the southwest corner of Humphrey and Ft. Valley as shown on Exhibit A.

2. The City will:

The following shall replace Article II.g.

g. Upon approval and by resolution of the City Council, accept ownership jurisdiction and maintenance responsibility for Kendrick Street, Navajo Road extension, and at the southwest corner of Humphrey and Ft. Valley as shown on Exhibit A.

**III. MISCELLANEOUS PROVISIONS**

Article III. 8 & 9 are added to the following language:

8. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".


9. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.


**CITY OF FLAGSTAFF**

**STATE OF ARIZONA**

By   
JOSEPH C. DONALDSON  
Mayor

By   
DOUGLAS A. FORSTIE, P.E.  
Deputy State Engineer, Operations

ATTEST

By   
MARGIE BROWN  
City Clerk

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JPA 02-131

APPROVAL AS TO FORM BY THE CITY OF FLAGSTAFF CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF FLAGSTAFF and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. I express no opinion as to the authority of the State of Arizona to enter into this agreement.

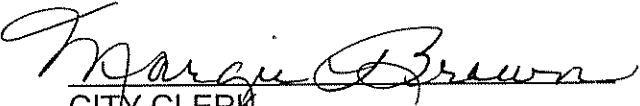
Dated this 6<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
City Attorney

### **CERTIFICATION**

I, Margie Brown, City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2004-54 adopted by the Flagstaff City Council at their Regular Meeting held June 15, 2004.

**IN WITNESS WHEREOF**, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 21st day of June, 2004.

  
CITY CLERK

(SEAL)

RESOLUTION NO. 2004-54

A RESOLUTION APPROVING AMENDMENT ONE TO INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA THROUGH THE DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF AMENDING THE AGREEMENT TO INCLUDE ADDITIONAL ROADWAY AT THE SOUTHWEST CORNER OF HUMPHREYS STREET AND FT. VALLEY ROAD TO BE ACCEPTED AND MAINTAINED BY THE CITY OF FLAGSTAFF

WHEREAS, the Council of the City of Flagstaff approved Resolution No. 2002-63 authorizing the City of Flagstaff to enter into an Intergovernmental Agreement ("IGA") with the State of Arizona through the Department of Transportation ("ADOT"), pursuant to which ADOT would provide the City with improvements along US 180 - Fine Avenue to Navajo Road, including reconstruction of water and sewer lines, new street lights, painting of traffic signals and street lights and minor curb and gutter enhancements over and above the roadway work planned by ADOT at an estimated total project cost to the City for design, construction and administration of \$563,733 and under which the City would accept a right-of-way near Kendrick Street to be abandoned by ADOT; and

WHEREAS, the City and ADOT desire to amend the IGA by Amendment One to Intergovernmental Agreement ("Amendment") in the form set forth in Amendment One to Intergovernmental Agreement, attached to the Staff Summary Report in support of this Resolution, which Amendment would replace Exhibit A to the IGA with a new Exhibit A that would include an additional roadway section at the southwest corner of Humphreys Street and Ft. Valley Road; and

WHEREAS, the Amendment would further provide for the City to accept into the City's jurisdiction said additional roadway section at the southwest corner of Humphreys Street and Ft. Valley Road and to maintain said roadway section upon the completion thereof; and

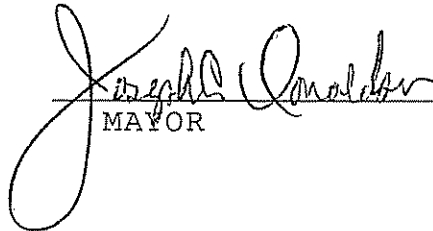
WHEREAS, the Amendment would also add miscellaneous provisions to the IGA concerning the applicability of the Americans with Disabilities Act and conditioning the State's payment obligations to availability of funds.

WHEREAS, the City Council has reviewed the proposed Amendment and finds that it is in the best interests of the City to enter into Amendment One to IGA with the State;

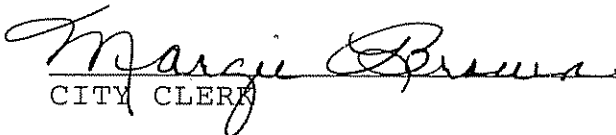
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That Amendment One to Intergovernmental Agreement between the State and the City submitted as an attachment to the Staff Summary Report for the City Council meeting of June 15, 2004, be hereby approved and the Mayor be authorized and directed to execute Amendment One to Intergovernmental Agreement on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of June, 2004.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM

  
\_\_\_\_\_  
CITY ATTORNEY



TERRY GODDARD  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855


**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-1526TRN (**JPA 02-131, Amendment One**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: August 2, 2004

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section